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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,134	03/31/2004	Alf Siebke	037068.53199US	4912

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EXAMINER

KRAMER, DEVON C

ART UNIT PAPER NUMBER

3683

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,134

Applicant(s)

SIEBKE, ALF

Examiner

Devon C Kramer

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,10,12-16,18,23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,17,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 7-9,11,19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/03/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1) Claims 5-6, 10, 12-16, 18, and 23-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/13/04.

Priority

2) Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 10/01/2001 and 08/12/2002. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b). Please note that paper 7/7/04 recites that the documents were submitted, but they can not be found in the file.

Information Disclosure Statement

3) The reference to WABCO fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there is no technical explanation of relevance and no English translation or abstract. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Drawings

4) New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figure 1 of the application has reference numerals cut off. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

5) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 9, 82, 1". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: plunger 74, spring 84, lines 83 and 84. Corrected drawing sheets in

compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Please note that the specification and drawings require many changes to place the file in condition for allowance. Applicant is asked to review the specification and drawings to correct these issues. The amendment to the specification filed on 1/28/05, created more errors by reciting a "spring 84" and "a plunger 74" which cannot be found in the drawings.

Specification

7) This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required. **Please note that paper 1/28/05 states that an amended abstract was submitted, but it is not currently in the file. An amended abstract is needed to remove the terms "means" and "said" from the abstract filed on 3/31/04.**

The disclosure is objected to because of the following informalities: The specifications reference to the drawings contain multiple errors, some which are cited in

the above drawing rejections. Applicant is asked to review the drawings and specification to ensure they correspond.

Appropriate correction is required.

Claim Objections

8) Claim 12 is objected to because of the following informalities:

Claim 12 line 3, "in which the brake is completely released" should be --in which the braking position is released--. Please note that "the brake" was not used in claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10) Claims 1-4 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Angerfors (WO 97/20153).

In re claims 1 and 21, Angerfors teaches a spring-loaded cylinder (figure 1) for an emergency and parking brake effect, comprising: a cylinder housing (22); a piston (4) arranged in the housing, the piston operating a brake lever (page 4 lines 6-10, inherent to the arrangement of cylinder and caliper) which is pretensioned by a spring (5); a release screw (1); a primary chamber (inherent to the device) and at least one contact switch (8, 16) provided between the release screw and the piston, which detects a

position of the piston in the cylinder housing. Please note that member 8 is between the screw portion and the piston.

In re claims 2 and 22, see abstract.

In re claims 3-4, see element 55.

Claim Rejections - 35 USC § 103

11) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12) Claims 1, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurichh et al (3926094) in view of Angerfors (WO 97/20153).

In re claims 1, 17 and 21, Kurichh et al teaches a spring-loaded cylinder (figure 1) for an emergency and parking brake effect, comprising: a cylinder housing (11); a piston (46) arranged in the housing, the piston operating a brake lever (near 52) which is pretensioned by a spring (66); a release screw (138); a primary chamber (122), a membrane (26) upon which the piston is pressed via the spring (60, 66). Kurichh lacks the teaching of the contact switch.

Angerfors et al teaches the claimed contact switch.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the brake actuator of Kurichh et al with the contact switch of Angerfors merely to be able to detect the position of the piston within the cylinder to enable a worker to ascertain the position of the brake.

Allowable Subject Matter

13) Claims 7-9, 11, and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C. Kramer whose telephone number is 571-272-7118. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Devon C Kramer
Examiner
Art Unit 3683

DK

DEVON C. KRAMER
PATENT EXAMINER
Devon Kramer
6/9/05